

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	CRIMINAL ACTION NO.
v.)	2:18cr413-MHT
)	
ROCKTICA HUDSON)	

ORDER

This cause is before the court on defendant Rocktica Hudson's unopposed motion to continue. For the reasons set forth below, the court finds that jury selection and trial, now set for December 3, 2018, should be continued pursuant to 18 U.S.C. § 3161(h) (7) to February 4, 2019.

While the granting of a continuance is left to the discretion of the trial judge, see *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making

public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would be likely to ... result in a miscarriage of justice," § 3161(h)(7)(B)(i), or "would deny counsel for the defendant ... reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Hudson in a speedy trial.

Hudson has submitted an application for pretrial diversion and represents that the parties need a continuance of about 90 days to give sufficient time for the United States Attorney to review the pretrial-diversion request, and, if diversion is approved, for the United States Probation Office to conduct a pretrial-diversion investigation. The government does not oppose the continuance. Based on these representations, the court concludes that a continuance is warranted to enable Hudson and the government sufficient time to prepare effectively by completing the pretrial-diversion application process.

Accordingly, it is ORDERED as follows:

(1) Defendant Rocktica Hudson's motion to continue (doc. no. 19) is granted.

(2) The jury selection and trial, now set for December 3, 2018, are continued to February 4, 2019, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 20th day of November, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE